

Court of Appeals, State of Michigan

ORDER

People of MI v Warren Charles Abernathy

Docket No. 280099

LC No. 07-028852-FH

Brian K. Zahra
Presiding Judge

Helene N. White

Karen Fort Hood
Judges

In lieu of granting the delayed application, the Court orders, pursuant to MCR 7.205(D)(2), that the May 9, 2007, order of the Saginaw Circuit Court denying defendant's request for the appointment of appellate counsel is VACATED, and this matter is REMANDED to the trial court for a determination of whether defendant is indigent and, if so, for the appointment of appellate counsel. *Halbert v Michigan*, 545 US 605; 125 S Ct 2582; 162 L Ed 2d 552 (2005). Appointed counsel may file an application for leave to appeal to this Court, and/or any appropriate postconviction motions in the trial court, and the time for filing shall be determined based on the date of the trial court's order appointing counsel. See e.g., *People v White*, 478 Mich 862; 731 NW2d 410 (2007). Counsel may include among the issues raised, but is not required to include, those issues raised by the defendant in his application for leave to appeal in this Court.

The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB 20 2008

Date

Sandra Schultz Mengel
Chief Clerk